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8

9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**

11 SANSI NORTH AMERICA, LLC, a New
12 York limited liability company,

13 Plaintiff,

14 v.

15 LG ELECTRONICS USA, INC., a
16 Delaware corporation, and DOES 1-10,

17 Defendants.
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CASE NO. 2:18-cv-03541 PSG (SKx)

**SECOND AMENDED COMPLAINT
FOR (1) FALSE DESIGNATION OF
ORIGIN; (2) FALSE
ADVERTISING; (3) TRADE DRESS
INFRINGEMENT; (4) TRADE
LIBEL; (5) UNFAIR
COMPETITION IN VIOLATION
OF BUSINESS AND PROFESSIONS
CODE; (6) COMMON LAW
UNFAIR COMPETITION**

DEMAND FOR JURY TRIAL

22 Plaintiff SANSI NORTH AMERICA, LLC hereby asserts this second amended
23 complaint against defendants LG ELECTRONICS USA, INC. and DOES 1-10 and
24 alleges as follows:

25 **INTRODUCTION**

26 1. Defendant LG Electronics USA, Inc. (“LG”) is the United States arm of
27 LG Electronics Inc., a South Korean multinational electronics company that reported
28 record revenues in 2017 of approximately \$55.4 billion. LG markets, distributes and

1 sells numerous electronic products throughout the United States for both home and
2 commercial uses.

3 2. Recently, LG entered into the digital signage industry in which Plaintiff
4 Sansi North America, LLC (“Sansi”) is already well known for its spectacular, high-
5 resolution, high quality and high profile LED signs lining Times Square in New York
6 City, an interactive LED head sculpture at the Convention Center in Columbus, Ohio,
7 a digital wall in the main branch of the Bank of Hawaii in Honolulu, a high-resolution
8 LED video wall that wraps around a corner and displays an immersive public art
9 installation in a new office tower developed by Kilroy Realty on Mission Street in San
10 Francisco, and Sansi’s award-winning video wall screen in the lobby of the Salesforce
11 headquarters in San Francisco, among many others. Images of nearly 50 such
12 standout projects created and built by Sansi can be viewed on Sansi’s website at
13 <https://snadisplays.com/projects>, including the following depiction of the Salesforce
14 screen with iconic images of a waterfall crashing down around the entries to the
15 elevator banks:



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26 3. LG’s website, on the other hand, shows mostly artist renderings of
27 imaginary projects, rather than any actual accomplishments in the field. Apparently
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1 lacking any actual examples of its own achievements in digital signage, LG caused an
 2 promotional article to be published in January/February 2018 issue of Digital Signage
 3 Magazine’s Digital Signage Best Practices Guide published by NewBay Media, LLC
 4 and authored by Garry Wicka, LG’s Head of Marketing, Commercial Displays
 5 Division, which included a photograph of the Salesforce lobby screen with a caption
 6 falsely identifying it as having been *custom built by LG*. The false attribution of
 7 credit for the project to LG has caused customers and other members of the digital
 8 signage industry to question whether Sansi had been truthful in its marketing and
 9 promotion regarding its role in the project and whether the extensive prominence and
 10 recognition that Sansi had received for the project were truly warranted. This
 11 confusion and conflict is causing substantial harm to Sansi’s reputation in the
 12 community and digital signage industry, as well as its sales. LG has planted a seed of
 13 doubt that is difficult, if not impossible, to fully stem, because Sansi has no way of
 14 knowing what customers or prospective customers were intercepted by LG as a result
 15 of its misrepresentation and LG has refused to disclose the leads and sales that the
 16 promotional article elicited.

17 4. There is no question that Mr. Wicka in his role as LG’s Head of
 18 Marketing, Commercial Displays Division, knew that the Salesforce screen was not
 19 built by LG. Moreover, anyone who researched the project enough to determine the
 20 project specs that were included in the caption would have also learned that it was, in
 21 fact, custom built by Sansi. Nonetheless, LG has taken no meaningful steps to correct
 22 the misrepresentation or to compensate Sansi for the harm caused to it, and has failed
 23 and refused to provide information to Sansi that would allow it to determine the scope
 24 of the injury that has been caused to it, making this lawsuit necessary.

25 THE PARTIES

26 5. Plaintiff Sansi North America, LLC is a New York limited liability
 27 company with its principal place of business in Manhattan, New York. Sansi does
 28 business in numerous other states, including California, and holds a license from the

1 State of California Contractors State License Board to engage in the business or act in
2 the capacity of a contractor in California in classification C45 for electrical signs.
3 Sansi has built custom commercial electronic signage at numerous locations in
4 California, including LA Live in downtown Los Angeles, South Coast Plaza in Costa
5 Mesa, and the Salesforce headquarters in San Francisco.

6 6. Defendant LG Electronics USA, Inc., is a Delaware corporation with its
7 principle place of business in Englewood Cliffs, Bergen County, New Jersey. LG also
8 operates throughout the country, including in California, by selling a wide variety of
9 electronics products, including home appliances, computers, mobile telephones, as
10 well as commercial products, including digital signage. LG is qualified and registered
11 with the California Secretary of State to do business in California and conducts
12 extensive business, and makes extensive sales, in Los Angeles.

13 7. Plaintiff is informed and believes that Defendants Does 1 through 10,
14 inclusive, are at fault in whole or in part for the claims alleged herein. The true
15 names, whether corporate, individual, or otherwise of Does 1 through 10, inclusive,
16 are presently unknown to Plaintiff and, therefore, these Does are being sued by
17 fictitious names, and Plaintiff will seek leave to amend this Complaint to include the
18 true names and capacities when the same have been ascertained.

19 8. Plaintiff is informed and believes that at all times relevant to this action,
20 each of the Defendants was the agent, affiliate, officer, director, manager, member,
21 principal, alter-ego, and/or employee of the other Defendant and was at all times
22 acting within the scope of such agency, affiliation, alter-ego relationship and/or
23 employment, and actively participated in or subsequently ratified and adopted, or
24 both, each and all of the acts or conduct alleged herein with full knowledge of each
25 and every violation of Plaintiff's rights and the damages to Plaintiff proximately
26 caused thereby.

JURISDICTION AND VENUE

9. This Court has subject matter jurisdiction over the Lanham Act claims alleged by Plaintiff because the claims arise under the Lanham Act, 15 U.S.C. §§ 1051, *et seq.*, and jurisdiction is conferred by 28 U.S.C. § 1331 and 1338 (a) and (b). This Court also has supplemental jurisdiction, pursuant to 28 U.S.C. § 1367, over the subject matter of the state law claims because those claims are so related to Plaintiff's federal claims as to form part of the same case or controversy under Article III of the United States Constitution.

10. Venue is proper in the Central District of California pursuant to 28 U.S.C. Sections 1391(b)(1) and 1391(c)(2) because LG resides in this district and is subject to the Court's personal jurisdiction in this district.

ALLEGATIONS COMMON TO ALL CLAIMS FOR RELIEF

11. Sansi is a turn-key provider of LED lighting and indoor/outdoor LED digital video displays. Sansi is one of the largest global suppliers specializing in LED lighting and displays. For more than 25 years it has managed, fabricated, implemented and installed some of the nation's largest and most spectacular signs.

12. Among Sansi's more prominent projects is the award-winning, 106 foot long 4 mm LED video screen in the lobby of the Salesforce headquarters at 50 Fremont Street in San Francisco. Sansi performed the structural, mechanical, and electrical design, fabrication, and installation of the custom digital screen. It is the longest continuous 4 mm LED screen in the United States and it features over 7 million pixels, providing crisp, clear imagery for spectacular video, such as the stunningly realistic waterfall that has garnered over 57 million views on Mashable and many hundreds of thousands of views on YouTube. The Salesforce lobby has been widely recognized as the best lobby in the country. The project has received awards from The One Club for Creativity, The Motion Awards by Motionographer, Apex Installation Awards, The One Show, Art Director's Club, and others.

1 13. The Salesforce lobby project has been Sansi’s most prominent for lead-
2 generation. No other project – even two massive installations of 17,000+ square feet –
3 have been more valuable to Sansi in terms of lead generation and recognition of quality,
4 capability, and general prominence. The Salesforce video wall is widely known in the
5 digital display industry but also transcends the industry, recognizable to millions of
6 others, given the viral videos, striking content, and prominent location. Every week,
7 Sansi’s dealers, customers and prospective customers tell Sansi that they are looking for
8 a product similar to the Salesforce LED screen. Sansi includes the Salesforce LED
9 screen, as well as a very complimentary letter of recommendation from Salesforce, in
10 all of its presentation materials for new project proposals for both indoor and outdoor
11 LED screens. Thus, Sansi is innovation and high quality design and installation on the
12 Salesforce LED screen have built substantial goodwill for Sansi and generated
13 additional sales of indoor and outdoor LED screen projects.

14 14. In approximately March 2018, Sansi learned that an industry publication,
15 the January/February 2018 issue of Digital Signage Magazine’s Digital Signage Best
16 Practices Guide published by NewBay Media, LLC, contained an article entitled
17 “Reimagining What’s Possible with Digital Displays,” authored by Garry Wicka, LG’s
18 Head of Marketing, Commercial Displays Division. The article advocated using OLED
19 technology, promoted LG products, and, purportedly as an example of such technology,
20 contained a photograph of the Salesforce LED screen created by Sansi with the
21 following caption:

22 The Salesforce San Francisco office has a **custom-built LG OLED**
23 **screen** in their lobby that is 12K resolution, with over 7 million pixels,
24 and measures close to 107 feet long. The content ranges from amazing
25 waterfall visuals to California’s Redwood National Park and is synced
26 with the local weather to play content that matches the weather.

27 (Emphasis added.)
28

1 15. Mr. Wicka's representation that the LED screen in the Salesforce lobby was
2 an OLED screen custom-built by LG Electronics, which is one of Sansi's competitors,
3 is blatantly false, which Mr. Wicka knew. Furthermore, anyone who did enough
4 research to discover detailed specifics about the Salesforce screen, namely that it
5 contains 12K resolution and over 7 million pixels, and measures almost 107 feet long,
6 would have also readily discovered that it was created and built by Sansi, not by LG.

7 16. LG's publication of the false representation that it custom built the
8 Salesforce LED screen intercepted and misappropriated the tremendous goodwill that
9 Sansi built in its creation, design, installation and marketing of the Salesforce LED
10 screen, and likely intercepted actual sales to customers. This publication of false
11 information by a company of LG's size and prominence also caused tremendous
12 speculation and controversy within the digital signage community, including among
13 Sansi's customers, competitors, and digital consultants, causing them to question
14 whether Sansi had been truthful about building the Salesforce screen and whether the
15 accolades, awards, and media coverage justifiably attributed the project to Sansi. Such
16 confusion, doubt, and controversy casts aspersions on Sansi's credibility and reputation
17 and is causing substantial economic and reputational injury to Sansi of a magnitude that
18 is unknown to Sansi because it has no way of knowing what sales and leads were
19 intercepted by LG as a result of the false statements in the article. Moreover, the
20 damage caused to Sansi by the misrepresentation is ongoing, because the bell cannot be
21 unrung, and Sansi cannot take corrective measures as to those customers, prospective
22 customers, dealers, and consultants who are unknown to Sansi.

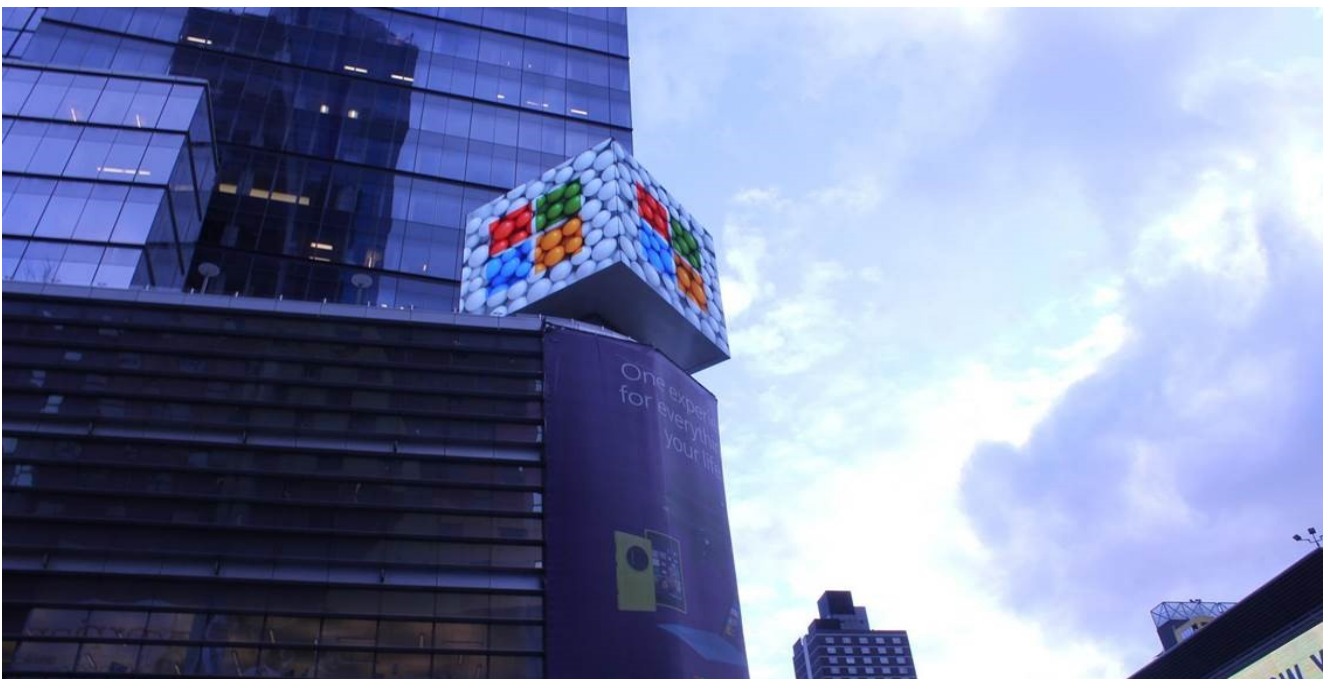
23 17. On March 26, 2018, counsel for Sansi sent letters to LG and to NewBay
24 Media LLC, informing them of the falsity of the statement made in the article authored
25 by Mr. Wicka.

26 18. Other LG marketing material supports the conclusion that LG is
27 intentionally misleading consumers into believing that Sansi's original designs are
28 LG's. For example, LG posts images on its website of purported projects that Sansi is

1 informed and believes do not actually exist, but are purely artist renderings. The
2 following is one such example found on LG's website at
3 <http://www.lg.com/us/business/commercial-display/led-signage>:



19. The above rendering looks strikingly like the following actual and very high-profile project built by Sansi at the Microsoft Technology Center at 11 Times Square in New York City:



20. Meanwhile, LG has been actively competing with Sansi and marketing directly to Sansi's clients to try to take business away from Sansi.

21. LG's continuing conduct sends a strong message that (a) LG intends to continue taking false credit for projects created and built by Sansi; (b) any investigation conducted by LG revealed that the misrepresentation was made intentionally or recklessly; (c) LG's misrepresentation caused confusion in the marketplace and with Sansi's customers, prospective customers, and consultants; and/or (d) LG has profited from the confusion that it has caused in the marketplace and with Sansi's customers, prospective customers, and consultants.

FIRST CLAIM FOR RELIEF

(False Designation of Origin in violation of
the Lanham Act, 15 U.S.C. § 1125(a))

22. Plaintiff incorporates the allegations of each foregoing paragraph as though fully set forth herein.

23. Sansi's award-winning LED screen in the Salesforce lobby is distinctive of goods originating with Sansi. LG had no involvement in the creation or the construction of the Salesforce lobby screen and is not affiliated, connected, or associated with Sansi, and is not authorized or licensed by Sansi to claim any connection to the Salesforce screen.

24. In causing a photograph of the Salesforce screen to be published in the Digital Signage Best Practices Guide with a caption falsely stating that the screen was custom built by LG, LG caused confusion in the minds of persons in the digital signage community, including Sansi's customers, competitors and consultants.

25. In causing a photograph of the Salesforce screen to be published in the Digital Signage Best Practices Guide with a caption falsely stating that the screen was custom built by LG, LG used in commerce a false designation of origin, a false and misleading description of fact, and a false and misleading representation of fact. LG's

1 use of these false statements is likely to, and did, cause confusion as to the origin of the
2 Salesforce screen in violation of the Lanham Act. 15 U.S.C. § 1125(a)(1)(A).

3 26. As a direct and proximate result of LG's wrongful conduct, Sansi has
4 suffered and will continue to suffer economic damages and damage to its reputation and
5 goodwill, in an amount to be proven at trial.

6 27. LG's false accreditation of the Salesforce screen was knowing, deliberate,
7 willful, purposeful, and without extenuating circumstances. Consequently, Sansi is
8 entitled to recover up to three times the amount of its damages, as well as LG's profits
9 from the misrepresentation, and Sansi's attorneys' fees and costs of this action. 15
10 U.S.C. § 1117(a).

11 28. LG's wrongful conduct has caused and, if not enjoined, will continue to
12 cause irreparable and/or continuing harm to Sansi, for which it has no adequate legal
13 remedy.

14 **SECOND CLAIM FOR RELIEF**

15 (False Advertising in violation of the Lanham Act,
16 15 U.S.C. § 1125(a)(1)(B).)

17 29. Plaintiff incorporates the allegations of each foregoing paragraph as though
18 fully set forth herein.

19 30. LG has used in commercial advertising or promotion a provably false
20 statement of fact that the Salesforce screen was custom-built by LG, which
21 misrepresented the nature of the Salesforce screen in violation of the Lanham Act. 15
22 U.S.C. § 1125(a)(1)(B). The article in which the false statement was published in the
23 Digital Signage Best Practices Guide was a promotional piece advertising LG's
24 products, services and technology.

25 31. LG's false statement caused confusion in the digital signage community that
26 is likely to influence the purchasing decisions by Sansi's customers and consultants.

27 32. LG is a direct competitor of Sansi and has been targeting Sansi's customers
28 to take business away from Sansi.

33. As a direct and proximate result of LG's intentional false statements, Sansi has suffered and will continue to suffer competitive and commercial injury in an amount to be proven at trial.

34. LG's false accreditation of the Salesforce screen was knowing, deliberate, willful, purposeful, and without extenuating circumstances. Consequently, Sansi is entitled to recover up to three times the amount of its damages, as well as LG's profits from the misrepresentation, and Sansi's attorneys' fees and costs of this action. 15 U.S.C. § 1117(a).

35. LG's wrongful conduct has caused and, if not enjoined, will continue to cause irreparable and/or continuing harm to Sansi, for which it has no adequate legal remedy.

36. Sansi incorporates the allegations of each foregoing paragraph as though fully set forth herein.

38. The LED screen built by Sansi in the Salesforce lobby in San Francisco is highly distinctive and unique, as evidenced by the many awards it has won.

1 the location, location size, product size, the precise arrangement of LED products, and
2 other technical details. No other LED video screen in the world is designed or looks
3 precisely like this one.

4 40. LG used Sansi's trade dress without Sansi's permission in a promotional
5 magazine article in a manner that is likely to, and did, cause confusion among readers
6 and consumers as to the source of the screen.

7 41. As a direct and proximate result of LG's wrongful conduct, Sansi has
8 suffered and will continue to suffer economic damages and damage to its reputation and
9 goodwill, in an amount to be proven at trial.

10 42. LG's false accreditation of the Salesforce screen was knowing, deliberate,
11 willful, purposeful, and without extenuating circumstances. Consequently, Sansi is
12 entitled to recover up to three times the amount of its damages, as well as LG's profits
13 from the misrepresentation, and Sansi's attorneys' fees and costs of this action. 15
14 U.S.C. § 1117(a).

15 43. LG's wrongful conduct has caused and, if not enjoined, will continue to
16 cause irreparable and/or continuing harm to Sansi, for which it has no adequate legal
17 remedy.

18 **FOURTH CLAIM FOR RELIEF**

19 (Trade Libel)

20 44. Sansi incorporates the allegations of each foregoing paragraph as though
21 fully set forth herein.

22 45. LG has publicly made a false statement of fact that the Salesforce screen
23 was custom build by LG. The statement was published to numerous publications in a
24 digital edition and hard copies of the Digital Signage Best Practices Guide.

25 46. LG knew that the statement was not true when it made the statement or
26 acted in reckless disregard of the falsity of the statement.

27 47. No privilege protects the false statement made by LG.
28

1 55. California Business & Professions Code Section 17200 prohibits any
2 unlawful, unfair or fraudulent business act or practice.

3 56. LG's misconduct set forth above constitutes unlawful, unfair or fraudulent
4 business acts or practices in violation of the California Unfair Business Practices Act,
5 Cal Bus. & Prof. Code § 17200, *et seq.*

6 57. LG's misconduct has resulted in damage to Sansi, without limitation, in the
7 form of lost profits and damage to reputation and goodwill, for which it is entitled to
8 restitution.

9 58. Unless LG's false statements about the source of Sansi's projects are
10 enjoined, Sansi will continue to sustain financial injury and damage to its business and
11 reputation, and competition will decrease in the market.

12 **SIXTH CLAIM FOR RELIEF**

13 (Common Law Unfair Competition)

14 59. Sansi incorporates the allegations of each foregoing paragraph as though
15 fully set forth herein.

16 60. LG's false statement that the Salesforce screen was custom-built by LG
17 has the effect of reverse-passing off of Sansi's product as LG's product. LG's false
18 statements deceive the public as to the source of the Salesforce screen and is likely to
19 influence customers' decision to purchase similar products from LG, which is a direct
20 competitor of Sansi.

21 61. LG's misconduct constitutes unfair competition in that it offends
22 established public policy and is immoral, unethical, oppressive, unscrupulous and
23 injurious to consumers.

24 62. LG's misconduct has resulted in damage to Sansi, without limitation, in
25 the form of lost profits and damage to reputation and goodwill, in an amount to be
26 proven at trial.

27 63. The acts of unfair competition alleged herein were committed with
28 oppression, fraud and malice. Specifically, LG knew or acted with reckless disregard

1 of the fact that it has violated Sansi's rights and is competing unfairly. Therefore,
 2 Sansi requests the imposition of exemplary damages pursuant to California Civil Code
 3 § 3294.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, Plaintiff prays for relief as follows:

- 6 1. The damages sustained by Plaintiff, as well as and Defendant's profits;
- 7 2. Statutory damages pursuant to 17 U.S.C. § 504;
- 8 3. Punitive damages;
- 9 4. Injunctive relief prohibiting Defendant from making any further false and
 10 defamatory statements about Sansi and its products and services and from using
 11 Sansi's products to promote Defendant's products;
- 12 5. Plaintiff's costs and reasonable attorneys' fees and expenses incurred in
 13 this action;
- 14 6. Prejudgment interest; and
- 15 7. Such additional and further relief as the Court deems just and proper.

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 17 DATED: September 24, 2018

Respectfully submitted,

18 AKERMAN LLP

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 21 By: /s/ Caroline H. Mankey

22 Caroline H. Mankey
 23 Attorneys for Plaintiff
 24 SANSE NORTH AMERICA, LLC
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DEMAND FOR JURY TRIAL

Plaintiff Sansi North America, LLC hereby demands a trial by jury on all issues triable by jury.

DATED: September 24, 2018

Respectfully submitted,

AKERMAN LLP

By: /s/ Caroline H. Mankey

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